

EXHIBIT 1

POND5

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Pond5 Terms of Use

These Terms of Use govern your access to and use of the www.pond5.com website, which is owned and operated by Pond5 Inc. and Pond5 GmbH (collectively, "Pond5"), and the other websites of Pond5 and its subsidiaries (together with such website, collectively, the "Website").

Please read these Terms of Use carefully before accessing or using the Website. These Terms of Use limit Pond5's liability and may substantively affect your rights. By accessing or using the public or private portions of the Website, you accept and agree to be bound by these Terms of Use. If you are accessing or using the Website on behalf of your employer or another person or entity, you represent and warrant that you have full legal authority to bind such employer or other person or entity. **If you do not have such authority or you do not agree with these Terms of Use, do not access or use the Website.**

Changes to Legal Terms

Pond5 may change these Terms of Use and the guidelines, policies, restrictions and agreements on the Website at any time and from time to time without notice. You are cautioned to review the Terms of Use and the guidelines, policies, restrictions and agreements posted on the Website periodically. Your continued access to or use of the Website after any such changes are posted will constitute your acceptance of and agreement to the changes.

Content and Other Materials

Pond5 and its subsidiaries (collectively, "Affiliates" and together with Pond5, "we", "us" and possessives thereof) offer an on-line marketplace where people may submit and upload at the Website a variety of works, including film and video footage, music, sound effects, photographs, illustrations, animation, Flash files, templates, media project files and/or other audio, audio-visual, or visual works, whether generated optically, electronically, digitally or by any other means or in any media or other material (any and all of such works that are uploaded to the Website or otherwise submitted to us, individually and collectively, "Content") so the same may be downloaded by and licensed to users, members, registrants and licensees of the Website.

No Content may be uploaded to the Website or otherwise submitted to us unless the person or entity doing so (a "Contributor") first agrees the Pond5 Contributor Agreement, as the same may be changed by us from time to time (the "Contributor Agreement"), and any and all Content uploaded to the Website or otherwise submitted to us is contributed to us on the terms and subject to the conditions of the Contributor Agreement.

Except as provided below under Evaluation Usage, no Content may be downloaded or otherwise copied from the Website, unless the person or entity doing so first agrees to the Pond5 Content License Agreement, as the same may be changed by us from time to time (the "License Agreement"), and any and all Content downloaded or copied from the Website is subject to and only may be downloaded and used on the terms and subject to the conditions and restrictions of the License Agreement.

All Content, Previews and other works, content and materials (including the organization and presentation of the foregoing) on the Website (the "Materials") and copyrights and other intellectual property rights therein and thereto are the property of us and our licensors and are protected by copyright, trademark and other

intellectual property laws. "Pond5" and "World's Stock Media Marketplace" are registered trademarks and "www.pond5.com" "media for makers" are trademarks of Pond5. The visual appearance of the Website is protected trade dress of Pond5 under 15 U.S.C. § 1125 et seq.

Unless you have entered into a separate written agreement with us, such as the License Agreement and as may be expressly permitted by said agreement, except as provided below under Evaluation Usage, any use of any of these Materials, including any modification, public display or performance, derivative use, exploitation or distribution, without our written permission is strictly prohibited. Copyright and other intellectual property notices or watermark on any Materials shall not be deleted or modified.

Evaluation Usage

Provided and for so long as you comply with these Terms of Use, Pond5 grants you a limited, non-transferable license (the "Evaluation License") to (i) download watermarked, preview or thumbnail versions of any Content ("Preview(s)") and the information regarding such Content that is displayed on the Website ("Content Information"), and (ii) use the Previews and Content Information solely for the purpose of evaluating whether you wish to purchase a license to the Content under the License Agreement. You may use Previews and Content Information solely for your internal evaluation and for no longer than sixty (60) days from the date of download, except for this limited, internal evaluation use, you may not copy, distribute, publish, display, sublicense, make available, or otherwise use in any way any Preview or Content Information, and you may not use any Preview in any work or materials distributed or displayed outside of your company. If you purchase a license to the Content under to License Agreement, the above limitations will not apply to the extent provided in the License Agreement.

Use of the Website

We operate the Website as a service provider of an on-line marketplace, providing storage of materials on our systems or networks at the direction of Pond5's users.

You will access and use the Website and participate in the Website for lawful purposes only and only in accordance with these Terms of Use and the guidelines, policies, restrictions and agreements on the Website.

You will not on or through the Website do any of the following:

1. conduct any fraudulent, criminal offence or other unlawful activity;
2. upload any Content that is illegal, offensive, abusive, indecent, defamatory, harassing or menacing;
3. send or upload any communication, Content that infringes, misappropriates or violates anyone else's copyright, trademark, privacy, publicity or any other legal right;
4. conduct any activity which consists of or contains software viruses, political campaigning, commercial solicitation, chain letters, mass mailings or any form of "spam";
5. resell or make commercial use of the Website, any part thereof or, except as permitted by the License Agreement as related to Content downloaded thereunder, any Material;
6. collect or use of any Content descriptions or information or prices, except (i) to view and evaluate for purchase of a license of the Content under the License Agreement or (ii) as permitted by the License Agreement as related to Content downloaded thereunder;
7. download or copy any member, registrant or Content information for the benefit of another merchant or website except as necessary to utilize rights to downloaded Content pursuant to the License Agreement;
8. use any data mining, robots or similar data gathering and extraction tools on or at the Website or use any other automated means to access the Website;
9. frame or use framing techniques to enclose the Website or any part thereof or any Content or any trademark, logo, or other proprietary information (including images, text, page layout or form) of Pond5 or the Website without our express written consent;
10. use any meta tags or any other "hidden text" utilizing any of our names or trademarks without our express written consent;
11. take any action that imposes, or may impose in our sole discretion, an unreasonable or disproportionately large load on our servers or other infrastructure or use the Website in any way that causes, or is likely to

- cause, the Website or access to or use of it to be interrupted, damaged or impaired in any way;
12. advertise products or services or solicit any user of the Website, whether or not such advertising or solicitation is in the form of unrequested bulk commercial email; or
 13. exploit for any commercial purpose without our express written consent the Website, any part thereof except as necessary to utilize rights to downloaded Content pursuant to the License Agreement.

User Codes

You agree that: (a) you will not share the user ID or password that you obtained or use in connection with your access to or use of the Website, an upload to the Website or a purchase of a license to Content from the Website (collectively "User Codes") with any other person, (b) you will take all necessary actions to preserve the confidentiality of such User Codes, (c) you are responsible for all acts or omissions that occur under any User Code; and (d) you will immediately notify us in writing in the event that you learn that: (i) any such User Code is lost, stolen, or improperly disclosed to a third party; (ii) the authority or employment of any person provided with a User Code on your behalf has been or is about to be terminated; (iii) the confidentiality of any User Code has been compromised in any way; or (iv) you learn about a possible or actual unauthorized access to and/or use of the Website.

Links

The Website may provide links or references to other sites, services and resources on the Internet, including payment processors. Pond5 has no control over such sites, services and resources and we are not responsible for and we do not endorse such sites, services and resources. You further acknowledge and agree that we will not be directly or indirectly responsible or liable for any damage or loss caused by or in connection with use of or reliance on any content, events, goods or services available on or through any such site, service or resource. Any dealings you have with third parties found while using the Website are between you and the third party, and you agree that Pond5 is not liable for any loss or claim that you may have against any such third party.

Termination of Use

We may at our sole discretion terminate or limit anyone's access to or use of the Website at any time and for any reason without prior notice. In addition, we may immediately terminate or limit your access to or use of the Website, any pre-paid credits or subscription and/or any Evaluation License without notice, if you fail to comply with any provision of these Terms of Use or any other agreement with us. In such event, you agree to immediately (i) stop using the Website and all Previews and Content Information and (ii) delete all Previews, Content Information, other Materials and all copies thereof from all digital media and destroy all other copies, or, at Pond5's request, return all such copies to Pond5, and (iii) pay all amounts owed to Pond5. If we terminate or limit your access to or use of the Website for breach of any agreement or terms or reasonable cause, Pond5 will not be obligated to refund any fees paid by you.

Privacy; Your Personal Data

We are committed to respecting the privacy of the personal information of the individuals with whom we interact. We have developed a Privacy Policy to describe our privacy policies and practices and how we collect, use and disclose the personal information of those individuals who visit the Website. Please see our Privacy Policy for further details.

By inputting any personal information on the Website or otherwise providing any personal information to us, you are consenting to your personal information being shared with and processed in the course of our business by (a) us and our Subsidiaries, which are located in various different countries, including the U.S., which provide varying and in some cases less privacy protection than your country, and (b) in some cases the Content User in case of questions about clearances or claims of infringement.

If you believe that your privacy rights (or the privacy rights of a minor of whom you are the parent or legal guardian) are violated by any Content or other Material on the Website, email us at legal@pond5.com notice with the following information:

- a description of the material that you claim violates your (or if acting for a minor, the minor's) privacy rights or where it is located on the Website, with enough detail that we may find it on the Website;
- a description of how the material violates your (or if acting for a minor, the minor's) privacy rights;
- your (and if acting for a minor, the minor's) name, along with your address, telephone number and email address;
- a statement by you that you have a good faith belief that the disputed use has not been authorized and violates your (or if acting for a minor, the minor's) privacy and a representation that the information in the notice is true and correct.

Services

We may provide services in connection with the Website, including email notifications, Content downloading and information publication. We will endeavor to ensure that such services are available, operate correctly and are free from malicious code (e.g., computer viruses). You agree to release and hold harmless Pond5 for any damages arising out of your use of the Website, including the unavailability, failure or improper operation of services provided in connection with the Website.

You may incur fees for using certain services ("Fee-Based Services") provided by us. The fees for Fee-Based Services will be conspicuously posted, and you will not be allowed to access any Fee-Based Service without first approving the fees for such service. You agree to pay us all fees charged by us for Fee-Based Services you elect to access.

The Website and Materials Provided "As Is".

THE WEBSITE, OUR SERVICES AND THE MATERIALS ARE PROVIDED "AS IS" WITHOUT ANY REPRESENTATION, WARRANTY OR GUARANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR TITLE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. WE DO NOT REPRESENT OR WARRANT THAT THE WEBSITE, OUR SERVICES AND THE MATERIALS WILL MEET YOUR REQUIREMENTS OR THAT THEIR USE WILL BE UNINTERRUPTED OR ERROR FREE. THE ENTIRE RISK AS TO THE QUALITY, PERFORMANCE AND USE OF THE WEBSITE, OUR SERVICES AND THE MATERIALS IS WITH YOU. Certain jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. You have specific rights under this warranty, but you may have others, which vary from jurisdiction to jurisdiction.

Limitation of Liability

WE AND OUR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, PARTNERS AND AGENTS (including us, collectively, the "Pond5 Parties") SHALL NOT BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY GENERAL, DIRECT, PUNITIVE, SPECIAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES, OR LOST PROFITS OR ANY OTHER DAMAGES, COSTS OR LOSSES OR PROCEEDING ARISING UNDER THESE TERMS OF USE OR ARISING OUT OF YOUR OR ANY OF YOUR REPRESENTATIVES' USE OF THE WEBSITE, OUR SERVICES OR ANY OF THE MATERIALS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, COSTS OR LOSSES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE. THE FEES FOR OUR SERVICES REFLECT AND ARE SET IN RELIANCE UPON THIS ALLOCATION OF RISK AND THE LIMITATIONS OF LIABILITY SET FORTH IN THESE TERMS OF USE. SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS OF USE, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF THE POND5 PARTIES UNDER THESE TERMS OF USE, OR THE ACCESS OR USE OF THE SITE OR ANY OF THE MATERIALS, SHALL BE LIMITED TO AN AGGREGATE OF ONE (\$1) US DOLLAR OR THE AMOUNT SET FORTH IN THE LICENSE AGREEMENT, IF APPLICABLE AND GREATER, EVEN IF WE OR ANOTHER POND5 PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Indemnification

You agree to indemnify and hold each of the Pond5 Parties harmless against all claims or liability asserted against any of us arising out of or in connection with any breach by you or anyone acting on your behalf of any of these Terms of Use.

Claims of Intellectual Property Infringement or Other Rights Violated.

Pond5 respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, you should notify us of your infringement claim in accordance with the procedure set forth below.

We will process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act (the "DMCA") and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to our Copyright Agent at drosen@go2rosenlaw.com, (Subject line: "Pond5 DMCA Takedown Request"). You may also contact us by email at legal@pond5.com or mail at:

Pond5, Inc.
251 Park Ave S, 7th Floor
New York, NY 10010

To be effective, the notification must be in writing and contain the following information:

- an physical or electronic signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- a description of the copyrighted work or other intellectual property that you claim has been infringed;
- a description of the material that you claim is infringing or where it is located on the Website, with enough detail that we may find it on the Website;
- your address, telephone number and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law;
- a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Please keep in mind that if you knowingly make a false claim in a DMCA takedown notice, you could be subject to liability for damages, court costs and attorneys' fees under Federal law.

Interpretation.

Unless the context requires otherwise, in any part of these Terms of Use: (a) "including" (and any of its derivative forms, e.g. "includes"), "e.g." and "for example" means "including but not limited to"; (b) "must not", "should not", "shall not" and "may not" are expressions of prohibition, and "will", "must", "should" and "shall" are expressions of command, and not merely expressions of future intent or expectation; (c) use of the singular imports the plural and vice versa; (d) references to one or no gender include the other or no gender; (e) references to the terms "herein" or "hereto" refer to these Terms of Use (including any terms incorporated by reference herein); (f) the headings in these Terms of Use are for ease of reference only and shall not affect its interpretation; and (g) when calculating the time period before which, within which or following which any act is to be done or step taken pursuant to these Terms of Use, the date that is the reference date in calculating such period shall be excluded and the time period shall be deemed to end at 11:59 PM Greenwich Mean Time on the applicable date.

Consent to Electronic Communications.

By inputting any information on the Website, you are consenting to receive communications from us electronically and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

Miscellaneous Provisions.

1. The parties to these Terms of Use are independent contractors, and nothing in these Terms of Use or the guidelines, policies, restrictions and agreements on the Website shall create a joint venture, partnership, employment relationship, or franchise or fiduciary relationship between the parties.
2. If any provision of these Terms of Use is deemed invalid, void, or for any reason unenforceable, that provision will be deemed severable and will not affect the validity and enforceability of any remaining condition.
3. No waiver of any default under these Terms of Use will apply to any subsequent default, whether of a similar nature or not, nor will any such waiver be construed as a waiver of any other provision of these Terms of Use.
4. If any provision, or portion thereof, of these Terms of Use, or its application to any person or circumstance, shall be invalid, illegal or unenforceable to any extent, the remainder of these Terms of Use, such provision and their application shall not be affected thereby, but shall be interpreted without such unenforceable provision or portion thereof so as to give effect, insofar as is possible, to the original intent of the parties, and shall otherwise be enforceable to the fullest extent permitted by law.
5. These Terms of Use shall be construed in accordance with the laws of the State of New York without regard to its choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not govern these Terms of Use. Any access to and use of the Website and the entering into these Terms of Use will be deemed to take place in the United States.
6. Any dispute regarding these Terms of Use will be resolved exclusively by a State or Federal court in New York City in the United States. We and you hereby waive any objection to venue, or to the inconvenience of the forum, of any such court or right to trial by jury to resolve any such dispute. The parties hereby consent to the jurisdiction of such courts.
7. You represent that, if you are an individual, you are at least 18 years of age and have the full right and authority to enter into these Terms of Use.
8. The Pond5 Parties are intended third party beneficiaries of these Terms of Use. Nothing in these Terms of Use or the guidelines, policies on the Website, express or implied, is intended to or shall confer upon any third person or entity other than the Pond5 Parties any rights, benefits or remedies of any nature whatsoever. Without limiting the generality of the foregoing, no provision herein shall be for the benefit of or enforceable by any creditor of any party hereto.
9. If you breach any provision of these Terms of Use and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach these Terms of Use.
10. Your obligations and our rights and remedies set out in these Terms of Use are cumulative and are in addition to your obligations and our rights and remedies at law or in equity.
11. Pond5 may assign these Terms of Use without your consent to any other party so long as such party agrees to be bound by its terms.
12. These Terms of Use are in addition to the Pond5 Contribution Agreement, the Pond5 Content License Agreement and the Pond5 Privacy Policy and the policies, guidelines and restrictions contained on the Website (which are all incorporated by this reference into these Terms of

Use).

Contact

If you have concerns relating to the Website, these Terms of Use or any Materials, please contact us at legal@pond5.com.

POND5

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DISCOVER

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EXPLORE

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HELP

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English

U.S. dollars (\$)

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EXHIBIT 2

POND5

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Find what you need...

FOOTAGE ▼

POND5 CONTRIBUTOR AGREEMENT

This Contributor Agreement ("Agreement") governs the terms by which content providers make their media works available for licensing via our online marketplace located at the Website (as defined below). Please read this Agreement carefully. By clicking "I agree" or otherwise signifying your acceptance to this Agreement, or by submitting content to the Website or allowing others to submit content to the Website on your behalf, you are agreeing to be legally bound by this Agreement, which may be updated from time to time as described in Section 17, and which incorporates by this reference the Website Terms (as defined below).

If you are accepting this Agreement or uploading works on behalf of your employer or another Person (as defined below), you represent and warrant that you have full legal right, power and authority to bind such employer or other Person to this Agreement and grant the rights granted in this Agreement. If you do not have such right, power and authority or you do not agree with these terms, do not accept the Agreement and do not upload or otherwise submit anything to the Website or us.

1. Parties and Definitions.

1. The party with which you are contracting is Pond5 GmbH, a Switzerland-based subsidiary of Pond5, Inc., a U.S.-based Delaware Corporation. The terms "Pond5", "we", "us" and "our" refer to Pond5 GmbH, and also, for purposes of the preamble and Sections 1 through 4, 5(e) and 10 through 17, Pond5 Inc. (its U.S. corporate parent) and its other Subsidiaries.
2. Our member registration process allows the individual user of the Website to designate him/herself or another Person as the member account holder or registrant (in either case, the "Member") on whose behalf the individual is accepting this Agreement and may carry out activity at the Website. The terms "you" and "your" refer to the Member and, if the individual who is accepting this Agreement is doing so on behalf of his/her employer or another Person, then with respect to the preamble and Sections 1 and 7 through 19 below, also jointly and severally such individual.
3. As used in this Agreement:
 1. "Audio Content" means Content that is a music or other audio file without video or one or more pictures or other visual works.
 2. "Content" means, individually and collectively, the copyrighted articles and other works referred to in Section 2 that are uploaded to the Website or otherwise submitted to us by you.
 3. "Content Information" means the tags, annotations and the information you provide to us at the time of upload of the Content to the Website (or another time acceptable to us) relating to Content or releases obtained in connection therewith.
 4. "Content Users" means licensees of Pond5 content under a Pond5 License Agreement and their Representatives.
 5. "Copyrighted articles" means any work that can be perceived, reproduced, copied or otherwise communicated, either directly or with the use of a machine or otherwise.
 6. "Person" means an individual or legal entity, including a company or a governmental agency or

instrumentality.

7. "Pond5 Parties" means us, the Resellers and our and their respective Representatives, shareholders and partners. "Pond5 License Agreement" means a license agreement described in Section 4(b) or (c) below.
8. "PRO" means a performing rights, mechanical rights or any other similar organizations (including ASCAP, BMI, SOCAN, SESAC, PRS, MCPS, SACEM, SDRM, JASLAC or GEMA).
9. "Representative" means a Person's officer, director, employee, agent or contractor.
10. "Resellers" means our and our Subsidiaries' sub-distributors and resellers.
11. "Submitted Content" means the Content and the Content Information.
12. When applied to us, "Subsidiaries" means all companies that from time to time directly or indirectly are owned or controlled by us, under common ownership or control with us or own or control us;
13. "Website" means our internet site at www.pond5.com, and the other internet sites of Pond5 and its Subsidiaries and Resellers.
14. "Website Terms" means our Terms and Conditions, guidelines, and community rules and restrictions contained at the Website where you upload content.

2. What we Offer.

We offer an online marketplace where you may upload or otherwise submit a variety of copyrighted articles and other works, including video footage, audio visual works, photographs, illustrations, music and other audio files, animations, 3D models, data files, program templates, and other audiovisual and digital media works for the purpose of us selling rights to the copyrighted articles and other works to our customers for use in their productions.

3. Submission of Content.

1. Once you have agreed to the terms of this Agreement and provided all information as required by us, you may upload or otherwise submit Content to the Website in accordance with our contributor guidelines.
2. By uploading or otherwise submitting Content to us, you are offering us rights to the Content on the terms of this Agreement. If we accept your offer by posting the Content on the Website, we will without further action have the rights to the accepted Content set forth in Section 4; however, you will retain legal ownership of your Content, and no copyright ownership or title will be transferred. For purposes of clarity, you will retain all right, title, and interest in all Content except to the extent you have sold rights to us under this Agreement and you may terminate our rights as provided Section 12 below.
3. We have the right in our sole discretion and for any reason, but not the obligation, to (i) accept or reject any Submitted Content, or (ii) at any time revoke any acceptance of Submitted Content and remove the same from the Website. We will endeavor to notify you of our decision via the Website or by email.
4. We also will have the right, but not the obligation, to edit, resize, resample, convert, color correct, crop or otherwise composite any Submitted Content to correct what we determine in our sole discretion to be an error, misleading statement, malfunction or omission or for purposes of facilitating the marketing, distributing, sale and licensing of the Content; provided that any screening, review, correction and/or editing of any Submitted Content performed by us is done as a courtesy only, and we will have no liability whatsoever therefor or for any failure to perform the same. You acknowledge that we are not providing legal advice to you.
5. You acknowledge and agree that you will be solely responsible (and we will have no responsibility whatsoever) for (i) each and every access to the Website that occurs in conjunction with your Member name or user ID and corresponding password (including access to the Website via FTP, API, or other modalities) or the Member name or user ID and corresponding password of a Person who is your Representative and who we reasonably believe has been authorized by you to access the Website or submit Content and/or Content Information, or who is accessing the Website or submitting Content and/or Content Information to us on your behalf (each of the foregoing, an "Authorized User"), (ii) monitoring or supervising any logons and activity under your or any such Person's Member name, including the

uploading of Content and Content Information, and (iii) the consequences of any of the foregoing. You furthermore acknowledge and agree that we are authorized to accept your Member name or any Authorized User's Member name or user ID and password as conclusive evidence that you wish to upload and submit Content and Content Information pursuant to this Agreement.

6. Because the Pond5 License Agreement treats Audio Content that is designated on the Website as Being "Cleared for Sampling/Available for Musical Works" differently from other Audio Content, when you submit or upload Audio Content you are required to designate in the Content Information whether the Audio Content is or is not "Cleared for Sampling/Available for Musical Works". If you do not, then you authorize us to make such designation in your place and stead and you agree to be bound by any such designation made by us.

4. Appointment as Distributor and Dealer and Licenses.

1. You hereby (i) appoint us as your non-exclusive distributor, and (ii) grant us the worldwide non-exclusive right (but we assume no obligations whatsoever) to directly or indirectly through Resellers market, promote, distribute, sell and/or grant broad perpetual, non-exclusive licenses to the Content and to collect and remit fees in connection with those efforts on the terms set forth in this Agreement.
2. The rights we grant to the Content under paragraph (a) above will be under the terms of and include the rights granted in (A) the Pond5 License Agreement posted by us on the Website, and (B) the variations of the same.
3. Pond5 will have the worldwide right (but assume no obligation) to use, copy, transmit, broadcast, telecast, and publicly display, perform the Content, and derivative works thereof, the Content Information, and your name and biographical information for purposes of promoting, advertising, marketing and distributing the Content, you, the Website, us and/or our business (collectively, "Promotional Uses"), including (i) allowing or sublicensing use by our Representatives and/or Resellers and other business partners working with or for us as part of such Promotional Uses and (ii) Promotional Uses as part of joint marketing arrangements between us and Resellers and other business partners. Promotional Uses will not entitle you to any compensation nor create any additional relationship or responsibilities between you and us.
4. You hereby waive (or have obtained a valid and enforceable waiver of) any "moral rights" related to the Content, including: (i) the right to be identified as the author of the Content; and (ii) the right to object to the modification of any Content.
5. You acknowledge that we have no responsibility whatsoever for the compliance by Content Users or any other Person with the terms of the Pond5 License Agreement. You also agree that, notwithstanding any rights you may have to pursue any such Person at law, we shall have no liability to you or any Person for any breach of said agreement or infringement or wrongful conduct by any such Person.

5. Pricing and Payment of Contributor's Fees.

1. You shall have the option of setting prices for the Content, or may request that we price the Content on your behalf. We will only sell rights to the Content to Content Users at the price set by you, provided that (i) we may round up the price to the next whole dollar amount, (ii) we and/or our Resellers may charge an additional amount to certain Content Users, but if we do, the net additional payment to us shall be shared with you according to the provisions regarding Contributor Fees in 5(b) below, (iii) if you opt in on the Website for the Content, we may allow the Content may be to downloaded without charge by Content Users as part of one of our promotions, and (iv) we will have no liability whatsoever for any errors in pricing that are not proved to have been caused primarily and directly by our gross negligence or willful misconduct. Any taxes paid by Content Users will not be paid or passed on to you.
2. We shall pay the Person specified by the Member fifty percent (50%) of the license fees received by us from Content Users for your Content ("Contributor's Fees"). We will pay on or about the 15th of each calendar month for Contributor's Fees accrued on or before the last day of the previous calendar month. At our sole discretion, we may make payment including Contributor's Fees accrued through the 15th, however such early payments shall have no precedential value, and we may change any early payment policy at any time. Notwithstanding the foregoing, we may delay any payment to you until (i) we have received the information and documentation that we reasonably determine is needed to verify your identifying

- information and comply with legal requirements, and (ii) a minimum payment set by us, after deductions, is due.
3. The minimum Pond5 payment to contributors is \$25, except for contributors who opt for payment by check, for whom the minimum payment is \$100.
 4. To the extent determined by us to be appropriate, payment of Contributor's Fees will be net of: (i) taxes or other withholdings that we determine are required by applicable law; (ii) bad debts or other uncollectible sums; (iii) legal and other reasonable fees incurred in enforcing this Agreement; (iv) fees, charges and/or costs payable to or deducted by financial institutions for the processing of any credit card, debit card, e-check or alternative payment method and/or currency conversion for payments received by us or paid to you in a currency other than U.S. Dollars; (v) refunded payments for Content; and (vi) any amounts owing by you to us under this Agreement or otherwise. Without limiting the generality of the foregoing, we are entitled to set-off against any amount owing to you, all amounts to which we are or may be entitled under this Agreement, any other agreement or otherwise at law, including withholding amounts as security for any pending or threatened claim relating to any matter which is the subject of a representation, warranty or indemnity under this Agreement.
 5. Pond5 allows the choice of various payment options and links to payment processors (which may from time to time include PayPal, Money Bookers, Payoneer and others) (collectively "Payment Processors") on the Website as an accommodation to our contributors. Although we believe that they are all reputable, the Payment Processors are not our agents or subcontractors and you are solely responsible for researching and determining whether a particular Payment Processor and its services ("Payment Processor Services") meet your requirements and are acceptable. In order to use a Payment Processor to process payments from us to you, you must (i) opt on the Website for payments to you to be paid to you through the Payment Processor and (ii) register and contract with and provide all information required by the Payment Processor. You and not us (i) will be solely responsible for updating such information and paying the Payment Processor's fees and charges, and (ii) assume any and all risks related to the choice and usage of the Payment Processor and its (and its contractors' and associated banks' and credit card networks' and payment gateway's) services, acts and omissions. We will be entitled to consider the Payment Processor to be your duly authorized agent for receiving each payment due to you and we be deemed to have met our payment obligations to you by delivering such payment to the Payment Processor with instructions that it be paid to you, unless (and until) such payment is returned to us.
 6. Subject to policies that we post on the Website from time to time, you may delay or refrain from arranging payment to you of sums owed to you in your membership account at Pond5. However, no interest will accrue. If at any time we determine that your account has become dormant, we may send you email notice of that determination. If you do not carry out any activity through your Pond5 membership account and we do not receive email or other written notice from you that you would like to keep your Pond5 membership active within one year after we send such notice to you, we will be entitled to terminate your membership and cancel any funds or payments owed to you.

6. Credit Attribution.

We will use reasonable efforts to identify you (or if different, the Person identified by you) as the copyright owner of the Content, and will advise, but not necessarily obligate Content Users to credit you or such copyright owner as the author where crediting is customary, including editorial uses, or where other such credits are provided. The current form of the Pond5 License Agreement as of the date of this version of this Agreement requires the Content Users to use reasonable commercial efforts in certain circumstances to ensure that their works containing Content include or are accompanied by a credit line hyperlink back to www.pond5.com that reads "Stock media provided by [Contributor Name or copyright owner]/ Pond5.com."

7. Performance of a Musical, Dramatic or Literary Work.

You may not submit any Content that is wholly or primarily a recording of a performance of a musical work or a literary or dramatic work (whether Audio Content, an audiovisual work or otherwise) the copyright of which is owned by or licensed on an exclusive basis to another Person unless you have received the written authorization from such owner or exclusive licensee for such submission and the inclusion of all necessary rights in such work in the rights granted to or by us under Section 4 (collectively, "Required Rights"), and you

represent and warrant that you have obtained any and all Required Rights and they are included in said license.

8. Performing Rights Organizations; You-Tube.

1. Without limiting the generality of Section 7 above and in addition thereto, except for reports and royalties that may be due to a PRO with regard to performance of Audio Content that you designate as being PRO Audio Content in the Content Information, to the extent permitted by applicable law, (i) you agree that no license is required from and no payments or reports are required to be made to you or any PRO relating to the license and distribution of the Content to Content Users by us or the use, performance, synchronization or distribution of such Content by Content Users as permitted by the Pond5 License Agreement and (ii) you waive any rights to any such payment or report.
2. You may not take any action on or with respect to YouTube (or other networks that allow for the so-called "claiming" or "monetization of content") that would interfere with the ability of Content Users to monetize or collect revenue from any such network with respect to their Works For Distribution.

9. Representations, Warranties and Clearances.

You hereby represent and warrant as of the date you accept this Agreement and the date of each submission of Content as follows:

1. The Content represents original creations and expressions of subject matter.
2. You (i) have the legal capacity and authority to enter into this Agreement, (ii) are the sole and exclusive owner of the Content and the copyright thereof or otherwise have obtained from such owner and have the full legal right, power and authority to grant or transfer all of the rights to the Content granted and transferred to us under this Agreement, including the full legal right, power and authority to grant us the right to sublicense such Content as contemplated under the Pond5 License Agreement, and (iii) have not granted any rights or licenses to any Content or any other intellectual property or technology or entered into any other agreement or commitment that would conflict with this Agreement or the Pond5 License Agreement.
3. You represent that, if you are an individual, you are of sufficient legal age to grant the rights and to create binding legal obligations set out in this Agreement.
4. You represent that all information provided to us by you or under your Pond5 membership or user ID, including all Content Information provided by you, is accurate and complete, including all information relating to the Content, any releases, you and credit card, payment address, or other payment information, and you agree to update such information as is necessary for such information to continue to be accurate and complete.
5. You are the Pond5 Member under whose user ID you are accessing the Website and uploading or otherwise submitting Content to us or a duly authorized Representative of such Member.
6. If the Content consists in whole or in part of elements that are provided by a third party design or other software program, the license agreement or other legal terms governing the use of such program allows you to incorporate such elements in the Content and to grant the licenses to such Content set forth in this Agreement.
7. No portion of the Content contains any disabling mechanism or protection feature designed to prevent its use, copying or enjoyment in the manner contemplated in this Agreement or the Pond5 License Agreement, and all Content will be free of any virus, worm, lock, or other mechanism or device that may be used to modify, delete, damage or disable the Website or any other hardware or computer system or software, or which would otherwise render inaccessible or impair the use of any of the same in any way.
8. Along with the Content you have used all reasonable efforts to provided all Content Information necessary to enable the effective marketing of the Content on the Website, which Content Information is accurate, complete and not misleading in all material respects and does not include any false, misleading or inapplicable metadata intended to or which has the effect of keyword "doping" or improperly altering search results that would otherwise be applicable to such Content, and to the extent that after submission of the Content you learn of anything to the contrary you will promptly update the Content Information

provided to us.

9. If the Content contains or depicts any recognizable name, voice, person, image, trademark, trade dress, logo, copyrighted audio, design, art, architecture or other works (collectively "Third Party IP"), and the Content Information indicates that you have obtained a model release from the person or persons depicted or a property release from the owner of the Third Party IP, (i) you have in fact obtained and have and will retain in your possession such release or releases, as the case may be, (ii) on request by us or the Content User, you will provide to us or such Content User such release or releases, as the case may be, (iii) such release or releases are in the form and substance of the form model release or property release, as applicable, maintained by us on the Website or substantially conform to the same, (iv) if a model release, the same was signed by the person whose name, voice, person or image was depicted and if the person was under the age of 18, the parent or legal guardian of such person, and (v) if a property release, to the best of your knowledge, the same was signed by the person who owns the Third Party IP.
10. Where the Content is identified as 'for editorial use', the Content has not been manipulated, modified or processed in any manner that might distort the contextual integrity of the Content. For greater clarity, cropping and brightness/contrast corrections are permissible where the integrity of the Content has not been distorted.
11. The Content has not been obtained, created or submitted to us under this Agreement in violation of any law.
12. The Content is not subject to any terms or condition that might be breached by the Content being used or distributed by (i) us as contemplated under this Agreement, or (ii) any Content User or other Person as contemplated by the Pond5 License Agreement.
13. If the individual who is entering into this Agreement or uploading or otherwise submitting the Content to us is doing so on behalf of his/her employer or other Person (including the Member if different from such individual), such individual represents and warrants that (i) he/she has the full right and authority to execute, deliver and perform this Agreement on behalf such employer or other Person, and (ii) this Agreement is a binding Agreement of such employer or other Person, enforceable against such employer or other Person in accordance with its terms. In the event that such employer or other or other Person (including the account Member) claims that such individual does not have such right, power and authority, such individual agrees that notwithstanding the preamble of this Agreement, in addition to all rights and remedies available against such employer or other Person, he/she will be personally liable to us under the provisions of Section 10 below whether or not such individual is otherwise considered to be "you" hereunder.
14. If after the submission to us of any Content, you receive any notice or otherwise learn in any way that any of the representations made by you in this Agreement were not accurate, complete and not misleading in all material respects or no longer are accurate, complete and not misleading in all material respects or of any claim by a third party to the effect of the foregoing, you will promptly provide us with written notice all relevant facts regarding the same and if appropriate, remove the Content from the Website.

10. Indemnification.

1. You agree to defend, indemnify and hold the Pond5 Parties harmless from and against any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and costs) arising out of or relating to any claim, action or proceeding by a third Person relating to or arising directly or indirectly out of (i) a claim that if proven would constitute a breach by you or any of your Representatives of this Agreement or any representation, warranty, or obligation contained herein, (ii) a claim that if proven would constitute a failure to fulfill any responsibility or obligation assumed by you under this Agreement, or (iii) a claim that a use of or other action regarding any Submitted Content by us under this Agreement or by a Content User in accordance with the Pond5 License Agreement infringes, misappropriates, or violated any copyright, trademark, trade secret, moral right, right of publicity or privacy or other intellectual property right of a third party, defames a third party or otherwise gives the right of a tort action by a third Person.
2. In addition, you agree to defend, indemnify and hold the Content Users harmless from and against any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and costs) arising out of or relating to any claim, action or proceeding by a third party to the extent based on (i) a claim that the use of or otherwise dealing with any Submitted Content by a Content User in accordance with the Pond5

License Agreement infringes the copyright of a third party, or (ii) a claim that if proven would constitute a breach by you or any of your Representatives of this Agreement or any representation contained in Section 8; provided that the indemnity in this paragraph will not apply if the claim, action or proceeding arose in part from the failure or alleged failure of a Content User to carry out an express responsibility or obligation assumed by the same in the Pond5 License Agreement, including the obligation of the Content User to make an independent assessment of the need for a release for any Third Party IP and obtain any such release that is needed.

11. Claims Against Content Users and Third Parties.

1. You agree that we will have the right, but no obligation whatsoever, to make any claim, bring any lawsuit or take any action regarding a breach or claimed breach by a Content User (a "Breaching Content User") of the Pond5 License Agreement and/or an infringement or claimed infringement of any of intellectual property or other rights in or relating to the Content by a Breaching Content User (each, an "Enforcement Action") and you hereby authorize us to make any such claim, bring any such lawsuit and/or take any such Enforcement Action on your behalf and upon our request you will provide any information, assistance and cooperation that we reasonable request in connection therewith.
2. You hereby release us from any and all claims you might now or in the future have, either directly or indirectly, arising out of or in connection with any Enforcement Action or determination by us to proceed or not to proceed or how we proceed in any Enforcement Action in any instance. Any monetary recovery we receive as a result of any Enforcement Action, to the extent such monies are intended to compensate us for lost licensing fees or statutory damages, shall, after deduction of all costs and expenses incurred in gaining such recovery (including reasonable attorneys' fees and costs) incurred by or on behalf of us in connection with such action, be divided between you and us pursuant to the provisions of the Contributor's Fees section above.
3. In the event we elect not to proceed against a Breaching Content User, you shall have the right to bring an Enforcement Action against such Breaching Content User for such breach or infringing action. Any monetary recovery you receive as a result of any Enforcement Action, to the extent such monies are intended to compensate for lost licensing fees that would have been due to us, shall, after deduction of all costs and expenses incurred in gaining such recovery (including reasonable attorneys' fees and costs), be divided between you and us pursuant to the provisions of the Contributor's Fees section above.
4. We will have no obligation whatsoever or authority to make any claim, bring any lawsuit or take any action regarding an infringement or claimed infringement of any intellectual property or other rights relating to the Content by any third party who is not a Content User or believed by us to be a Content User.

12. Term and Termination.

1. We may for any or no reason terminate this Agreement in connection with any specific Content or all Content (the "Terminated Content") at any time by providing you with written notice including: (i) a statement of our intent to terminate; (ii) the effective date of such termination; and (iii) an identification of the Terminated Content. We will remove from the Website the Terminated Content and cease offering sub-licenses to the same no later than the effective date of termination.
2. You may for any or no reason remove any or all Content from the pond5.com Website or deliver to us written notice of your request that we remove any or all Content from the Website. Such notice must be communicated by email to legal@pond5.com or such other means of written notice acceptable to us which enables us to confirm your identity. After we are able to reasonably confirm your identity and the authority of the individual who sent the notice, we will use our reasonable efforts to as soon as is practical cease offering such Content to Resellers and Content Users and remove the same from the Website. Subject to the next sentence, upon such removal the rights granted hereunder to us in connection with the specified Content will terminate. We and the Resellers may continue to utilize the terminated Content for purposes of advertising, marketing and promoting the Website, including use of the Content and derivative works thereof on the Website for such advertising, marketing and promotion of the Website, for a period of one (1) year from the effective date of such termination.
3. Notwithstanding any other provision in this Agreement: (i) removal of any content from the Website and/or

the termination or expiration of this Agreement or any rights granted to us hereunder will not terminate, alter or otherwise affect any rights granted by us as authorized in this Agreement prior to the effective date of such removal, termination or expiration, including rights granted to Content Users under the terms of the Pond5 License Agreement or any sub-license thereof permitted by said agreement, and each of such rights and sub-licenses will continue in full force and effect in perpetuity; and (ii) if any of your Content is in a customer's cart at the time of the removal or termination, we will not be required to remove the Content from the cart and we may allow the customer to purchase a license to such Content under the Pond5 License Agreement for a period of 30 days after such removal or termination.

4. Upon termination, we will be entitled to retain all amounts owing to you for a period of thirty (30) days to determine any applicable rights of set-off, and shall be entitled to deduct from such amounts, a reasonable administrative fee for establishing, managing and terminating your account.
5. The terms and provisions of the Preamble and Sections 1, 3(e), 4(d), (e) and (f), 5(b) through (f) and 7 through 19 shall survive termination or expiration of this Agreement for any reason.

13. DISCLAIMER OF WARRANTIES.

1. OUR SERVICES AND THE WEBSITE, INCLUDING ALL SERVICES PROVIDED THEREIN, ARE PROVIDED BY US ON AN "AS IS" BASIS, WITHOUT REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.
2. WE DISCLAIM ANY REPRESENTATION OR WARRANTY THAT OUR SERVICES, THE WEBSITE OR ANY SERVICES PROVIDED THEREIN WILL MEET YOUR REQUIREMENTS, ALWAYS BE AVAILABLE, WILL BE UNINTERRUPTED, SECURE, FREE OF VIRUSES OR SIMILAR CONTAMINATION, OR OPERATE WITHOUT ERROR; THAT INFORMATION OR MATERIALS INCLUDED ON THE WEBSITE WILL BE ACCURATE; OR THAT CONTENT USERS AND OTHER WEBSITE USERS WILL PERFORM THEIR OBLIGATIONS AS PROMISED.

14. LIMITATION OF LIABILITY.

1. YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF OUR SERVICES AND THE WEBSITE INCLUDING ANY OF THE CONTENT OR INFORMATION CONTAINED THEREIN. YOU AGREE THAT THE POND5 PARTIES ARE NOT LIABLE FOR ANY LOSS OR DAMAGE TO CONTENT OR MATERIAL SUBMITTED TO THE WEBSITE AND YOU ARE REQUIRED TO MAINTAIN YOUR OWN BACKUP FILES FOR ANY CONTENT SUBMITTED TO US.
2. THE POND5 PARTIES SHALL NOT BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR (i) ANY GENERAL, PUNITIVE, SPECIAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES, OR LOST ROYALTIES OR PROFITS OR ANY OTHER DAMAGES, COSTS OR LOSSES OR PROCEEDING ARISING UNDER THIS AGREEMENT OR RELATING TO OR ARISING OUT OF YOUR OR ANY OF YOUR REPRESENTATIVES' USE OF THE WEBSITE OR OUR SERVICES OR SUBMISSION OF ANY CONTENT, OR (ii) ANY DAMAGES, COSTS, LOSSES, PROCEEDING OR LOST ROYALTIES OR PROFITS WHATSOEVER RELATING TO OR ARISING OUT OF ANY USE, COPYING, MODIFICATION, DISPLAY, PERFORMANCE, DISTRIBUTION THEREOF OR OTHER ACTION BY ANY CONTENT USER OR ANY OTHER THIRD PARTY, OR RELATING TO THE RESULTS FROM THE USE THEREOF OR OTHERWISE, IN EACH CASE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, COSTS OR LOSSES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE. SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.
3. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF THE POND5 PARTIES ARISING UNDER THIS AGREEMENT OR RELATING TO OR ARISING OUT OF YOUR OR ANY OF YOUR REPRESENTATIVES' USE OF THE WEBSITE OR OUR SERVICES OR SUBMISSION OF ANY CONTENT OR ANY OTHER AGREEMENT (REGARDLESS OF THE AMOUNT OF CONTENT YOU SUBMIT TO US), SHALL BE LIMITED TO AN AGGREGATE OF ONE THOUSAND (\$1,000) U.S. DOLLARS, EVEN IF WE OR ANOTHER POND5 PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, PROVIDED THAT THIS LIMITATION WILL NOT APPLY TO THE FEES THAT ARE EXPRESSLY PAYABLE TO YOU HEREUNDER.
4. No action, regardless of form, arising under this Agreement or relating to or arising out of your or any of your Representatives' use of the Website or our services or submission of any Content or any other

agreement may be brought by you more than one year after the cause of the action has accrued.

5. We will not be held responsible for any delay or failure to comply with our obligations under this Agreement if the delay or failure arises from any cause which is beyond our reasonable control.
6. YOU ACKNOWLEDGE AND AGREE THAT (i) THE FEES FOR THE USE OF THE CONTENT REFLECT AND ARE SET IN RELIANCE UPON THE ALLOCATION OF RISK AND THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT, AND (ii) THE LIMITATIONS OF LIABILITY HEREIN ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU AND US.

15. Interpretation.

Unless the context requires otherwise, in any part of this Agreement: (a) "including" (and any of its derivative forms, e.g. "includes"), "e.g." and "for example" means "including but not limited to"; (b) "must not", "should not", "shall not" and "may not" are expressions of prohibition, and "will", "must", "should" and "shall" are expressions of command, and not merely expressions of future intent or expectation; (c) use of the singular imports the plural and vice versa; (d) references to one or no gender include the other or no gender; (e) references to the terms "herein" or "hereto" refer to this Agreement (including any terms incorporated by reference herein); (f) references to "in each case" refers to each case referred to prior to such phrase in the same sentence; (g) the headings in this Agreement are for ease of reference only and shall not affect its interpretation; and (h) when calculating the time period before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and the time period shall be deemed to end at 11:59 PM Greenwich Mean Time on the applicable date.

16. Miscellaneous Provisions.

1. The parties to this Agreement are independent contractors, and nothing in this Agreement or the rights granted herein, any upload or submission of Content or access to or use of the Website shall create a joint venture, partnership, employment relationship, or franchise or fiduciary relationship between the parties.
2. Upon reasonable notice, you will promptly allow us to inspect and provide us with information or documentation requested by us relating to (i) the creation of any Content, (ii) clearances or releases that have been obtained for any of any Content, and/or (iii) licenses, agreements or instruments relating to ownership of or rights to any Content. You also consent to us providing any of the same you have provided to us to Content Users and prospective Content Users.
3. If any provision, or portion thereof, of this Agreement, or its application to any Person or circumstance, shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement, such provision and their application shall not be affected thereby, but shall be interpreted without such unenforceable provision or portion thereof so as to give effect, insofar as is possible, to the original intent of the parties, and shall otherwise be enforceable to the fullest extent permitted by law.
4. This Agreement shall be construed in accordance with the laws of the United States and the State of New York without regard to its choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not govern this Agreement. The rights granted herein, any upload or submission of Content, access to and use of the Website and the entering into this Agreement will be deemed to take place in the United States.
5. Any dispute regarding this Agreement, the rights granted herein, any upload or submission of Content, any license granted by us or access to and use of the Website will be resolved exclusively by a State or Federal court in New York City in the United States. We and you hereby waive any objection to venue, or to the inconvenience of the forum, of any such court or right to trial by jury to resolve any such dispute. The parties hereby consent to the jurisdiction of such courts.
6. You will promptly reimburse us for any reasonable attorneys' fees and court costs that are incurred by us in enforcing this Agreement.
7. All of the covenants, terms, provisions and agreements contained in this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and permitted assigns.

8. The Pond5 Parties, the Persons indemnified hereunder and with respect to the Representations and Warranties set forth above, the applicable Content Users are intended third party beneficiaries of this Agreement; provided that a Content User (other than any of the Pond5 Parties) will not be entitled to assert a claim in reliance on this provision or Section 10 if the claim arose in part from the failure of a Content User to carry out an express responsibility or obligation assumed by the Content User under the Pond5 License Agreement. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other third Persons any rights, benefits or remedies of any nature whatsoever. Without limiting the generality of the foregoing, no provision herein shall be for the benefit of or enforceable by any creditor of any party hereto.
9. Except as otherwise set forth herein, any notice required or permitted to be given under this Agreement shall be in writing, delivered by hand, nationally recognized overnight courier service, email or registered or certified mail, addressed to Pond5 at: Pond5 Inc., 80 Fifth Ave., 18th Floor, New York, NY 10011 USA, with a copy by email to legal@pond5.com; or to you at the email address or contact information provided by you in your Pond5 member or registrant account.
10. If you breach any provision of this Agreement and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach this Agreement.
11. Your obligations and our rights and remedies set out in this Agreement are cumulative and are in addition to your obligations and our rights and remedies at law or in equity.
12. This Agreement is personal to you and is not assignable by you without our prior written consent. We may assign this Agreement without your consent to any other party so long as such party agrees to be bound by its terms.
13. This Agreement is in addition to the Website Terms and the Pond5 License Agreement, as any of the foregoing may be modified by us from time to time (all of which are all incorporated by this reference into this Agreement), all of which together embody the parties' entire agreement and supersedes and cancels any prior agreement, express or implied, written or oral, with respect to its subject matter; provided that in the event of any inconsistency between this Agreement and any such Website Terms, the terms of this Agreement shall govern.

17. Our Right to Make Changes to This Agreement.

1. Notwithstanding anything else in this or any other agreement, we will have the right, in our sole discretion, to make changes to this Agreement, the Pond5 License Agreement and/or the Website Terms at any time and for any reason, and (ii) you will be subject to the terms of this Agreement, the Website Terms and the Pond5 License Agreement in force (A) at the time that you upload or otherwise submit the Content, or (B) one (1) week after the date we send notice of a change, whichever is later.
2. You will have the right to opt out of the modified version of this Agreement by both removing your Content from the Website and providing us with written notice of your opt out during this notice period, provided that no such opt-out will in any way affect any sublicense granted by us before the Content is removed from the Website.
3. No modification, deletion, amendment of any provision is binding on us unless in writing signed by our authorized representative or posted by us on the site.

18. Consent to Electronic Communications; Your Personal Data.

1. We may send any notice to you by an email to the Member account at the email address that has been provided to us on your Member registration page. You consent to receive communications from us electronically and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.
2. You consent to your personal information being shared with and processed in the course of our business by (a) us and our Subsidiaries, which are located in various different countries, including the U.S., which provide varying and in some cases less privacy protection than your country, and (b) in some cases the Content User in case of questions about clearances or claims of infringement.

19. Acceptance of this Agreement.

1. By clicking "[I Agree](#)" or otherwise signifying acceptance, you accept and agree to be bound by this Agreement for yourself and on behalf of your employer or other Person that is identified as the Member, and agree to be bound by its provisions. If you are accepting on behalf of your employer or other Person, you represent and warrant that you have full legal authority to bind your employer or such other Person and to submit the Content and the Content Information to us and the Website on behalf of such employer or other or other Person.
2. You acknowledge that you have read this Agreement, understand it, and have had an opportunity to seek independent legal advice prior to agreeing to it. In consideration of Pond5 allowing you to submit the Content, you agree to be bound by the terms and conditions of this Agreement. Additionally, you acknowledge and agree that you have reviewed the Website Terms, the Pond5 License Agreement and any other agreements which may be incorporated by reference herein and therein, and to the extent of their incorporation in this Agreement, you agree to be bound by them.

POND5

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DISCOVER

+

EXPLORE

+

HELP

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English

U.S. dollars (\$)

EXHIBIT 3

POND5 CONTENT LICENSE AGREEMENT

This License Agreement governs the terms by which content users may download and use media works available for licensing via our online marketplace located at the Website (as defined below). Please read this Agreement carefully. By clicking "I agree" or otherwise signifying your acceptance of this Agreement or by downloading, copying or using any Content from the Website (as such terms are defined in Section 1 below), you are agreeing to be legally bound by this Agreement, which may be updated from time to time as described in Section 18 and which incorporates by this reference the Website Terms (as defined below).

If you are accepting this Agreement or downloading, copying or using any Content from the Website on behalf of your employer or another Person (as defined below), you represent and warrant that you have full legal authority to bind such other Person to this Agreement. If you do not have such authority or you do not agree with these terms, do not accept the Agreement and do not download or copy anything offered for download from the Website or otherwise use anything downloaded or copied.

1. Parties and Definitions.

1. If Licensee is located in the United States, then the party with which you are contracting is, and as used herein the terms "Pond5", "we", "us" and "our" refer to Pond5, Inc., a Delaware corporation. If Licensee is located outside the United States, then the party with which you are contracting and which is granting you the License is, and as used herein the terms "Pond5", "we", "us" mean, Pond5 GmbH, a Switzerland-based subsidiary of Pond5, Inc., and "our" means the possessive of whichever of the foregoing is applicable.
2. Our download process allows the individual user of the Website who is downloading Content to designate the "licensee" of such Content (such designated licensee, the "Licensee"), and such Licensee may be different from that individual. Notwithstanding the foregoing or anything else in this agreement, without limiting any of the representations and warranties in this Agreement, (i) a user may not download Content unless he or she has authority to and does in fact bind the designated Licensee to this Agreement, (ii) by using anything copied or downloaded from the Website, Licensee is agreeing to be legally bound by this Agreement, and (iii) Licensee will have or benefit from any of the rights and licenses set forth in this Agreement if and only if Licensee does not contest that it is bound by and fully complies with the terms herein.
3. If the individual who is accepting this Agreement is doing so on behalf of his/her employer or another Person that is identified as the Licensee, then, subject to clause (a) above, (i) the term "you" as used in this Agreement means, jointly and severally, that Licensee, and with respect to Sections 1, 4, 6, 9, 10, 12, 13 and 16 through 20 below, also such individual, (ii) "your" means the possessive of you, and (iii) references to third parties exclude you.
4. As used in this Agreement:
 1. "Audio Content" means Content that is a music or other audio file without video or one or more pictures or other visual works.
 2. "Content" means, individually and collectively, the works referred to in Section 2 (including Public Domain Content) that are downloaded or otherwise provided or licensed by us to you, whether in the

form downloaded or incorporated into a Work For Distribution.

3. "Content Information" means the tags, meta data, designations, annotations, information and documentation that are available on the Website or otherwise provided by us to you with, in or otherwise relating to Content.
4. "Contributor(s)" means the artist(s) and other part(ies) who directly or indirectly provide Content to us.
5. "Copyright Act" means the United States Copyright Act, as amended.
6. "Derivative work" (whether or not capitalized) has the meaning of said phrase under the Copyright Act.
7. "Member" means the Pond5 user, member account holder or registrant.
8. "Person" means an individual or legal entity, including a company or a governmental agency or instrumentality.
9. "Pond5 Parties" means Pond5, our Subsidiaries, our Resellers and our and their respective Representatives, shareholders and partners.
10. "PRO" means a performing rights, mechanical rights or any other similar organizations (including ASCAP, BMI, SOCAN, SESAC, PRS, MCPS, SACEM, SDRM or JASLAC, GEMA).
11. "Public Domain Content" is defined in Section 8 below.
12. "Representative" means a Person's officer, director, employee, agent or contractor.
13. "Resellers" means our and our Subsidiaries' sub-distributors and resellers.
14. when applied to us, "Subsidiaries" means all companies that from time to time directly or indirectly are owned or controlled by us, under common ownership or control with us or own or control us.
15. "Website" means our internet site at www.pond5.com, and the other internet sites of Pond5 and its Subsidiaries and Resellers.
16. "Website Terms" means our Terms and Conditions, guidelines, and community rules and restrictions contained at the Website where you upload content.
17. "Work for Distribution" refers to (A) any independently authored derivative work in any media now known or hereinafter devised, or (B) other independently created work, in any and all media now known or hereinafter devised (including in-context works for advertising and promotion), which in **either case in (A) or (B)**, incorporates Content together with other substantial independently created works, and is created by or for you or on your behalf as permitted by the terms of this Agreement.

2. What we Offer.

We offer an online marketplace where you may download and license under this Agreement a variety of works, including video footage, photographs, illustrations, music and other audio files, animations, 3D models, data files, program templates, and other audiovisual and digital media works.

3. Grant of License.

1. We hereby grant you a non-exclusive, worldwide, perpetual right and license (the "License") on the terms and subject to the conditions and limitations set out in this Agreement, to, an unlimited number of times: (i) directly or indirectly create Works for Distribution incorporating the Content, (ii) use, copy, modify, manipulate, couple, synchronize, publish, publicly display and perform, transmit, broadcast, telecast and distribute the Content within such Works For Distributions, (iii) permit third parties to do the foregoing subject to the conditions and limitations set out in this Agreement, and (iv) use the Content Information internally to facilitate the foregoing with regard to Content obtained from us.
2. The License is non-transferable. The term "non-transferable" as used herein means that except as specifically provided herein, you should not sell, rent, loan, give, sublicense, or otherwise transfer to anyone, any Content or the right to use any Content. You may, however, transfer Content to a third Person for the sole purpose of allowing such third Person to produce, duplicate or distribute your Work for Distribution, provided that you should take all commercially reasonable steps to prevent third parties from extracting or duplicating the Content. If you become aware of any unauthorized duplication of any Content, you should promptly notify us via the Website. For avoidance of doubt, the restriction on

transferability does not apply to your Works for Distribution.

3. Beyond the initial license fee set forth in the Website, subject to Section 7(e) below, no additional royalties or other payments to us are required for the License of Content, provided such use conforms to the terms of this Agreement, including the limitations on the number of Authorized Users in paragraph (e) below and the Restrictions on Use in Section 4.
4. This Agreement is a license, not an agreement of sale. You will not acquire, and we and/or the Contributors will retain, all right, title, and interest in and to all of the copyrights, trademarks, trade secrets, and all other proprietary rights in the Content or Content Information that are not expressly granted to you by the terms of this Agreement. The License does not include the right to record a new version of Content or the composition reflected thereby.
5. You may provide access to or use of Content that is not incorporated into a Work for Distribution ("Unincorporated Content") and the associated Content Information to no more than an aggregate of ten (10) Authorized Users at the same time, provided that such access is used solely under the terms of this Agreement and for the purpose of creation, reproduction or distribution of Works for Distribution made by or for you. You will prevent any other Person from having access to the Unincorporated Content or the associated Content Information. As used in this Agreement, the term "Authorized User" refers to any individual (i) who is your officer, director, employee, agent or contractor (collectively, your "Representatives") and (ii) who has been authorized by you to access and/or use Unincorporated Content and the associated Content Information in the creation, reproduction or distribution of Works for Distribution by or for you.
6. The License is conditioned upon (i) your and your Representatives' compliance with the terms of the License and this Agreement, (ii) your and your Representatives' use of the Content and the associated Content Information only as permitted in this Agreement, (iii) your fulfillment of your responsibilities hereunder, and (iv) our receipt of full payment of the amount(s) required herein or by the Website in respect to the applicable Content.

4. Restrictions on Use.

1. The License to any Content is subject to all restrictions and disclaimers applicable to such Content in or referred to in the Website pages where the Content is made available.

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2. distribute Content in a manner that facilitates third parties' ability to (A) extract without extraordinary effort the Content for use separate and apart from the Work for Distribution or (B) create derivative works incorporating Content, except as part of the marketing, editing or distribution of a Work For Distribution pursuant to Section 3; or
3. include or post any Unincorporated Content or a representation of the same on a publicly displayed or distributed website or software or internet application which facilitates its use as a template that could be customized by or at the request of a third party.
4. You may not: (i) sell or license Unincorporated Content to others for consumption, reproduction or re-sale or (ii) superficially modify any Unincorporated Content and sell or license it to others for consumption, reproduction or re-sale. For example, you may not (A) resell Unincorporated Content that is a video as a screensaver or desktop background, (B) sell or license an image extracted from Content to be printed on tee-shirts or other physical products for resale, or (C) print Unincorporated Content or an image extracted from Content on tee-shirts or other physical products for sale unless (in the case of (C) only) it is accompanied by other original work(s).
5. For photograph and illustration Content, you may not permit:
 1. more than 250,000 physical analog (non-digital) reproductions of the Content (whether as Unincorporated Content or as part of a Work For Distribution), except as part of a Work For

Distribution that is (A) advertising or promotional material that is not for sale, or (B) packaging or informational or promotional collateral that accompany media containing music or video (e.g., a CD or DVD) where the Work For Distribution containing the Content is not sold separately from the music or video; or

2. printed book or magazine covers with a distribution of more than 1000 copies to be made.
6. To the extent that source code is contained within the Content, you may not reverse engineer, decompile, or disassemble any part of such source code.
7. You may not remove any artist, Contributor or Pond5 copyright notice or attribution from any place where it is embedded in the Content or avoid, bypass, remove or impair any technological measure that limits access to the Content, but you may remove, modify or distort any third party copyrighted work, trademark, face or voice contained in the Content other than Audio Content without an appropriate release so that it is not ascertainable or recognizable.
8. Except for Content that is specified in the Website as being suitable for use in a logo, you may not incorporate any Content into a logo, trademark or service mark without explicit written permission from either us or the applicable Contributor.
9. You may not use any Content in a manner that violates any law of the State of New York, the United States or any other applicable jurisdiction.
10. You may not use any Content in a manner that or in a Work For Distribution that under applicable law (i) is pornographic, obscene, infringing, or defamatory, (ii) is reasonably likely to bring any person or property associated with the Content into disrepute (including any use in advertising or promoting illegal behavior, hostility or discrimination based on race, religion, ethnic background, sex, age, disability or sexual preference or any other subject matter that would be reasonably likely to be offensive or unflattering to any such person or property), or (iii) is an advertisement or marketing or informational material for a health product or service if the Content depicts a recognizable person unless the Content is accompanied by a disclaimer that the person is shown for illustrative purposes only.
11. Notwithstanding the foregoing, some Licensed Content may be available for certain of the restricted uses, provided a supplemental or extended license is entered into for such uses (for the avoidance of doubt, such uses are not included in this License Agreement).

5. Content Containing Likenesses of Persons, Other Copyrighted Works, Trademarks or Other Third Party IP.

1. You may not use any Content featuring a person in a manner that would lead a reasonable person to believe that the person personally uses or endorses a product or service, or if the depiction of the person would be unflattering or unduly controversial to a reasonable person, without accompanying each such use with a disclaimer indicating that the person is a model and their likeness is being used for illustrative purposes only.
2. You acknowledge and agree that (i) many jurisdictions provide legal protection against a person's name, image, voice, likeness, trademarks or property being used for commercial purposes without their consent, and (ii) for Content that contains or depicts any recognizable name, voice, person, trademark, trade dress, logo, copyrighted audio, design, art, architecture or other works (collectively "Third Party IP"), the License does not include the Third Party IP. However, in some cases, releases and clearances for Third Party IP have been obtained, and in such cases, to the extent contemplated by such releases and clearances, licensees and their agents are entitled to the benefit of the same. We endeavor to post information provided to us by the Contributors regarding whether such releases and clearances have been obtained in the Content Information. On your request and purchase of a License for Content that includes Third Party IP or our determination that you have a bona-fide interest in making such a purchase, we will use reasonable efforts to obtain from the Contributor and make available to you releases and clearances for any Third Party IP therein that are or have been provided to us for such Content; provided, however, we reserve the right to charge an additional fee for such assistance. We endeavor to identify on the Website the Content that contains Third Party IP or otherwise depicts personally identifiable information but is not accompanied by the necessary associated model or property releases ("Editorial Content") as "editorial content" or for editorial use only. However, notwithstanding anything in this Agreement, we assume no

responsibility whatsoever, and you are solely responsible, for (A) reviewing and if necessary confirming the Content and the releases provided by the Contributors and other Content Information, (B) determining whether or not any Content is or is not Editorial Content, (C) determining whether any additional clearance or release is required in connection with any proposed use of the Content, and (D) obtaining any additional releases and/or clearances that are legally required with regard to any Third Party IP.

3. Editorial Content may nevertheless be used in ways that would qualify as fair use under the U.S. Copyright Act and other applicable legislation, such as documentaries, news, parodies, educational content; provided, that we offer no assurance whatsoever that your use will qualify for fair use or that use that may qualify as fair use will protect you from legal claims of the owner of the Third Party IP and you assume the sole risk of such use.
4. Notwithstanding the generality of the preceding paragraphs and in addition thereto, for Content that is film, video footage or any other audiovisual work, any music, dialogue or other ambient audio contained therein is incidental only; accordingly, (i) we assume no responsibility whatsoever for obtaining, (ii) you are solely responsible for obtaining, and (iii) you will obtain any additional clearances relating to any of the same that may be required. In addition, we make no representations or warranties whatsoever regarding whether or not any additional fees or payments may be due to any union, guild, association or other organization for use of any of the same.

6. Your Other Responsibilities.

1. You must ensure full compliance with this Agreement by your Representatives.
2. If any Unincorporated Content is provided to the Licensee or any other Person, it must be accompanied by the Content Information and a copy of this Agreement.
3. You must make reasonable best efforts to safeguard against unauthorized third-Person access to Unincorporated Content or the associated Content Information.

7. Additional Provisions Regarding Audio Content.

1. You may alter, edit or modify Audio Content as otherwise permitted in this Agreement, subject to the restrictions in paragraph (g) below.
2. You may not monetize or collect revenue from YouTube (or other networks that allow for the so-called "claiming" or "monetization of content") for Audio Content by itself (i.e., Audio Content other than as and when used hereunder in Work For Distribution). If a unique license number is provided to you at the time of your purchase of the License, you will, in the event of any conflict on YouTube (or any such other network), via the tools supplied by YouTube (or the other applicable network), provide such license number to the applicable Contributor on request.
3. For purposes of this Agreement, if for Audio Content, the PRO box adjacent to the Audio Content on the Website page is checked or the Audio Content is otherwise designated as PRO Audio Content, then it is considered to be "PRO Audio Content" and if not, it is considered to be "Non-PRO Audio Content".
4. For Non-PRO Audio Content, the Contributor has represented and warranted that:
 1. the license to us includes rights to the composition of the Audio Content, if there is one; and
 2. except as provided in the next sentence, the licenses that we are authorized by the Contributor to grant includes the nonexclusive right to publicly perform, transmit to the public and distribute the Content, as contained in a Works for Distribution and when used as permitted under the other provisions of this Agreement.

However, notwithstanding the foregoing or anything else in this Agreement, if in connection with activities authorized hereunder, the law(s) of any jurisdiction (perhaps, for example, France and Spain), requires that, in order to avoid violation or the infringement of Contributor or third party rights notwithstanding the Contributor's agreement with us, rights be obtained from (and/or royalties be paid to) one or more PROs you must obtain such rights and pay such royalties at your sole expense in the jurisdiction.

5. For PRO Audio Content, nothing herein shall be deemed a waiver of any PRO royalties. You shall submit, and will instruct any third Person acquiring rights to the Works for Distribution, to submit cue sheets to the relevant PRO and to Pond5, and you will timely pay any PRO royalties or ensure such royalties are timely

paid.

6. You may not do any of the following regarding any Audio Content:

1. use it in whole or part to manufacture, distribute or sell records, CDs, jukeboxes, mp3s or any other predominantly audio product embodying it, in whole or in part, that is not synchronized or combined with other audio or musical content to create a derivative work as permitted in this Agreement (for example, you cannot use it to create a CD or other music compilation to give away or sell);
2. place it on or in any product or platform that makes it available in a manner such that a person can without extraordinary effort extract or access or reproduce it as an electronic file;
3. use or display it in whole or part in an electronic format that enables it to be downloaded or distributed via mobile devices or shared in any peer-to-peer or similar file sharing arrangement;
4. resell it in whole or part as backgrounds, "hold" music or ringtones; or
5. use it in a design template application intended for resale, whether on-line or not, including a website template or electronic greeting card template.

7. Unless the Audio Content is designated on the Website as Being "Cleared for Sampling", you may not do any of the following with it:

1. incorporate it in whole or part in any product or platform that results in its re-distribution or re-sale (such as music download sites, stock music CDs, electronic greeting card web sites, web templates and the like);
2. edit, modify, or alter it (A) beyond basic editing (e.g., setting fade-in/fade-out points, determining start and end points, or using only a portion of it), (B) in a way that alters its fundamental character, harmonic structure, lyrics and/or melody, or (C) to the prejudice of the un-waiveable moral rights of the artist(s);
3. use it in whole or part without synchronization or other combination with other original work(s) of authorship so that the combination constitutes a derivative work;
4. use it, in whole or in part, as an element of a new musical work (e.g., by combining the music Audio Content with other work so that a copyright can be claimed in the resulting song); or
5. modify it, in whole or in part, so that a copyright can be claimed in the resulting song) other than as part of a Work For Distribution that consists of an audio visual work, computer or mobile device application or an internet page.

8. Public Domain Content.

1. A work designated on the Website or otherwise by us as being "Public Domain Content" or otherwise as being in the public domain (collectively, "Public Domain Content") is designated as such when we believe that the work is considered under copyright laws of the United States to be in the public domain. However, such work may not be considered to be in the public domain in other countries and notwithstanding the foregoing or anything else in this Agreement, we assume no responsibility whatsoever, and you are solely responsible, for reviewing the Content Information and if necessary confirming that the Public Domain Content is in fact in the public domain in the United States and every other country where it or Works For Distribution including it will be used, copied, distributed, transmitted, broadcast, telecast, displayed or performed or derivative works created based thereon and obtaining any rights that are legally required with regard thereto.
2. Notwithstanding anything else in this agreement, the restrictions in Sections 4 (c), (e), (f) and (h) and 7 and the warranties in Section 9 (a) and (b) and 10 do not apply to Public Domain Content.
3. Generally, no releases have been obtained for any Third Party IP or musical, dramatic, choreographic or literary work depicted, performed or contained in Public Domain Content, so to the extent that any Public Domain Content depicts or contains any of the same, it should be considered to be Editorial Content.

9. Representations, Warranties and Disclaimers.

1. We warrant that (i) each Contributor of any Content other than Public Domain Content has represented and warranted that the Contributor either owns the copyright in the Content or has the rights under the

copyright to grant us a sublicense to grant the License granted to you herein (the "Contributor Warranty"), and (ii) to our knowledge and belief based solely on information provided by the Contributor, any talent or property release indicated in the Content Information for that Content as having been obtained has in fact been obtained.

2. **Limited Warranty:** We warrant that there are no material defects in the Content which would prevent it from being downloaded from the Website and used as permitted herein. If there are material defects in the Content, your exclusive remedy will be as follows: (i) upon request to us within 30 days of the download of such Content, you will be permitted to download the Content again to obtain a replacement copy of the Content; or (ii) if we determine, in our sole discretion, that defects would continue to prevent it from being downloaded from the Website or used as permitted herein successfully, we will refund the fee actually paid by you for such Content.
3. OTHER THAN AS EXPRESSLY PROVIDED IN SECTION 9(a) or (b), THE WEBSITE, OUR SERVICES, THE CONTENT AND THE CONTENT INFORMATION ARE PROVIDED "AS IS" WITHOUT ANY REPRESENTATION, WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. WE AND OUR SUBSIDIARIES AND OUR AND THEIR RESELLERS DISCLAIM ANY REPRESENTATION OR WARRANTY THAT THE CONTENT OR THE CONTENT INFORMATION WILL MEET YOUR REQUIREMENTS OR THAT ITS USE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT PERFORMING RIGHTS OR OTHER SIMILAR FEES WILL NOT BE PAYABLE BY YOU. THE ENTIRE RISK AS TO THE QUALITY, PERFORMANCE AND USE OF THE WEBSITE, THE CONTENT AND THE CONTENT INFORMATION OR ANY SERVICES PROVIDED BY US IS WITH YOU. SHOULD THE CONTENT PROVE DEFECTIVE OR PAYMENT OF PERFORMING RIGHTS OR OTHER SIMILAR FEES BE REQUIRED, YOU (AND NOT US) ASSUME THE ENTIRE RISK AND COST OF ALL NECESSARY CORRECTIONS OR PAYMENTS. Certain jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. You have specific rights under this warranty, but you may have others, which vary from jurisdiction to jurisdiction.
4. While we have made reasonable efforts to correctly categorize, keyword, caption and title the Content, we do not warrant the accuracy of such information. Additionally, we do not warrant the accuracy of any Content Information.
5. You represent and warrant that you have full right and authority to enter into and perform under this agreement, and that if you are an individual, you are of sufficient legal age to create binding legal obligations set out in this Agreement.
6. You represent that all information provided to us by you or under your Pond5 membership, registration or user ID is accurate and true, including all information relating to the Member and the Licensee and credit card or other payment information, and you agree to update such information as is necessary for such information to continue to be accurate and complete.
7. If you are the individual who is downloading the Content, you represent that you are the Member under whose user ID you are accessing the Website and downloading or otherwise copying Content from the Website or us.
8. You represent that you are (i) the Licensee, or (ii) a duly authorized Representative of the Member or Licensee, as the case may be.
9. If the individual who is entering into this Agreement is doing so on behalf of his/her employer or another Person, such individual represents and warrants that (i) he/she has the full right and authority to execute, deliver and perform this Agreement on behalf such employer or other Person, and (ii) this Agreement is a binding Agreement of such employer or other Person, enforceable against such employer or other another Person in accordance with its terms. In the event that such individual does not have such right, power and authority, such individual agrees that in addition to all rights and remedies available against such employer or other Person or his/her or his/her/its Representatives relating to violation or infringement of intellectual rights, he/she will be personally liable to us for any breaches of the terms of this Agreement or violation and infringement of intellectual rights in the Content by such individual, such employer or other Person and his/her or its Representatives.
10. If after downloading any Content, you receive any notice or otherwise learn in any way that any of the representations made by you in this Agreement were not accurate, complete and not misleading in all material respects or no longer are accurate, complete and not misleading in all material respects or of any claim by a third Person to the effect of the foregoing, you will promptly provide us with written notice all

relevant facts regarding the same and if appropriate, cease use of the Content.

10. Contributor Warranty and Indemnity; Limitations of Liability.

1. In our standard form of Contributor Agreement, the Contributors are required to (i) provide the Contributor Warranty for the benefit of us and any licensee of the Contributor's Content (e.g., you), and (ii) to agree to indemnify both us and such licensee (e.g., you) from and against an copyright infringement claim or action which is based on a claim that would be a breach of such representation and warranty, so long as the claim does not relate to a responsibility assumed by the licensee (e.g., you) in this Agreement (the "Contributor Indemnity"). Please note that the foregoing does not apply to Content provided by aggregated Content suppliers may be provided to us under an agreement that varies from our standard form of Contributor Agreement, in which case the provisions of this paragraph may not apply.
2. Except for claims which may be made against the Contributor under the Contributor Warranty or as provided under the Contributor Indemnity, the POND5 PARTIES AND THE CONTRIBUTORS SHALL NOT BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY PUNITIVE, SPECIAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOST PROFITS OR, IN THE CASE OF US OR THE OTHER POND5 PARTIES, ANY OTHER DAMAGES, COSTS OR LOSSES, INCLUDING THE COST OF COVER, ARISING UNDER THIS AGREEMENT OR OUT OF OR RELATED TO THE LICENSE, YOUR OR ANY OF YOUR REPRESENTATIVES' USE OR EXPLOITATION OF CONTENT, THE WEBSITE OR THE CONTENT INFORMATION, ANY SERVICES PROVIDED BY US OR THE RESULTS FROM THE USE THEREOF OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, COSTS OR LOSSES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE. SOME JURISDICTIONS DO NOT ALLOW FOR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.
3. NOTWITHSTANDING ANYTHING ELSE IN THIS OR ANY OTHER AGREEMENT, NONE OF THE POND5 PARTIES OR THE CONTRIBUTORS SHALL BE LIABLE FOR ANY DAMAGES, COSTS OR LOSSES ARISING AS A RESULT OF MODIFICATIONS MADE TO THE CONTENT BY YOU, ANY OF YOUR REPRESENTATIVES OR ANY THIRD PARTY OR THE CONTEXT IN WHICH THE CONTENT IS USED BY YOU.
4. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF THE POND5 PARTIES UNDER THIS AGREEMENT AND ANY OTHER AGREEMENT UNDER WHICH YOU HAVE LICENSED THE CONTENT OR OTHERWISE (REGARDLESS OF THE FILE SIZE OR OF THE NUMBER OF TIMES THAT YOU LICENSE THE SAME CONTENT FROM US), OR RELATED TO THE LICENSE OR THE USE OR EXPLOITATION OF ANY OR ALL OF THE CONTENT IN ANY MANNER WHATSOEVER OR ANY SERVICES PROVIDED BY US, SHALL BE LIMITED TO AN AGGREGATE OF ONE THOUSAND U.S. DOLLARS (\$1,000), EVEN IF WE OR ANOTHER POND5 PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
5. No action, regardless of form, arising out of the License, any supplemental or extended license or under this Agreement may be brought by you more than one year after the cause of the action has accrued, which in the case of an indemnity obligation is deemed to be the date the applicable claim is made or litigation is commenced.
6. We will not be held responsible for any delay or failure to comply with our obligations under this Agreement if the delay or failure arises from any cause which is beyond our reasonable control.
7. YOU ACKNOWLEDGE AND AGREE THAT (i) THE FEES FOR THE USE OF THE CONTENT REFLECT AND ARE SET IN RELIANCE UPON THE ALLOCATION OF RISK AND THE LIMITATIONS OF LIABILITY SET FORTH IN THIS AGREEMENT, AND (ii) THE LIMITATIONS OF LIABILITY HEREIN ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU AND US.

11. Indemnification.

Except for claims which may be made against the Contributor under the Contributor Warranty or as provided under the Contributor Indemnity, you assume full responsibility for the use of the Content or any services provided by us. You agree to defend, indemnify and hold the Pond5 Parties and the Contributors harmless from and against any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and costs) arising out of or relating to any claim, action or proceeding by a third Person relating to or arising directly

or indirectly out of (i) your or any of your Representative's or distributees' use of any Content or any services provided by us, (ii) any claim of a failure to obtain from third parties all permissions necessary to use any Third Party IP, (iii) any claim of a failure to fulfill any responsibility or obligation assumed by you under this Agreement, (iv) any modification of any Content or use of any Content with any work created or provided by you, any of your Representatives or a third Person, or (v) for any other breach by you or any of your Representatives of this Agreement.

12. Removal of Content.

If you learn that any Content is subject to a threatened or actual third party claim of infringement, violation of another right, or any other claim for which we may be liable, you will promptly notify us of any such claim. If we learn of such a claim from you, the third party or otherwise and we, in our sole good faith discretion, determine that the threatened or actual claim raises an inappropriate legal risk, upon notice from us, you will (i) remove the Content from your computer systems and storage devices (electronic or physical), and (ii) if commercially reasonable, cease any future use of the removed Content at your own expense. In such case, without charge we will provide you with Content that we determine in good faith is comparable, subject to the other terms and conditions of this Agreement.

13. Term and Termination.

1. The License will terminate automatically without notice from us if you fail to cure a breach or other failure to comply with any provision of this Agreement within 14 days of written notice of the same. Upon termination, you must yourself and must cause your Representatives to immediately: (i) stop using the Content; (ii) destroy or, upon our request, return the Content to us; (iii) delete or remove the Content from your premises, computer systems and storage (electronic or physical); and (iv) where applicable, ensure your Representatives and licensees do the same.
2. Notwithstanding the foregoing or anything else in this Agreement, so long as the fees due hereunder were paid, in the event of a breach or alleged breach hereunder, Pond5 shall be limited to the right to recover damages in an action at law and shall not be entitled to seek injunctive relief with respect to a Work for Distribution that has already been released or is in production as of the date of termination of the License.
3. You may terminate this Agreement by giving written notice to us and destroying the Content and any derivative works, along with any copies or archives of it or accompanying materials (if applicable), and ceasing to use the Content for any purpose.
4. The terms and provisions of Sections 1, 4 and 6 through 20 shall survive termination or expiration of this Agreement.

14. Payments & Taxes.

1. All sales of Licenses are final, and we are under no obligation to refund any fees paid by you for Content under any circumstances, except upon a material breach of the Contributor Warranty or one of our representations and warranties. However, if in the event of such a breach or your request for a refund, we, in our sole discretion, determine to provide you with a refund, the license granted in this Agreement for the Content will be rescinded as if never granted. Any refund will be made by such means as we determine is appropriate.
2. Prices, offers and Content are subject to availability and may change.
3. You are responsible for promptly paying any and all applicable sales taxes, use taxes, value added taxes, property tax, customs, duties and any related interest or penalties imposed by any jurisdiction as a result of the License, any supplemental or extended license or any use of the Content.
4. To the extent that you determine that you are required under law (e.g., under a tax law) to withhold any amount from payments due to us, the price for the applicable License is hereby increased by the amount that would cause the net amount payable by you to equal the price that would otherwise apply for the sale of the License.

15. Credit Attribution.

1. If the Content is used in an editorial context in a Work For Distribution that is posted online, you will use your reasonable best efforts to accompany the Work For Distribution with a credit line hyperlink back to www.pond5.com that reads "Stock media provided by [Contributor Name]/ Pond5.com".
2. For all other Works For Distribution incorporating the Content where crediting is customary (including any editorial use) or where other such credits are provided, you will use your reasonable best efforts to accompany the Work For Distribution with a credit line that reads "Stock media provided by [Contributor Name]/ Pond5.com", which unless other hyperlinked credits are provided, need not be hyperlinked.
3. The unintentional omission of credit attribution provided for above will not be considered to be a breach of this Agreement as long as you use your reasonable best efforts to promptly cure the same upon written notice.

16. Interpretation.

Unless the context requires otherwise, in any part of this Agreement: (a) "including" (and any of its derivative forms, e.g. "includes") "e.g." and "for example" means "including but not limited to"; (b) "must not", "should not", "shall not" and "may not" are expressions of prohibition, and "will", "must", "should" and "shall" are expressions of command, and not merely expressions of future intent or expectation; (c) use of the singular imports the plural and vice versa; (d) references to one or no gender include the other or no gender; (e) references to the terms "herein" or "hereto" refer to this Agreement (including any terms incorporated by reference herein); (f) references to "in each case" refers to each case referred to prior to such phrase in the same sentence; and (g) the headings in this Agreement are for ease of reference only and shall not affect its interpretation.

17. Miscellaneous Provisions.

1. The parties to this Agreement are independent contractors, and nothing in this Agreement or the License or any supplemental or extended license shall create a joint venture, partnership, employment relationship, or franchise or fiduciary relationship between the parties.
2. Upon Pond5's request, to the extent practical, you shall provide a copy of all uses of the Content.
3. If any provision, or portion thereof, of this Agreement, or its application to any person or circumstance, shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement, such provision and their application shall not be affected thereby, but shall be interpreted without such unenforceable provision or portion thereof so as to give effect, insofar as is possible, to the original intent of the parties, and shall otherwise be enforceable to the fullest extent permitted by law.
4. This Agreement shall be construed in accordance with the laws of the United States and the State of New York without regard to its choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not govern this Agreement. The License, any supplemental or extended license, any download of Content and access to and use of the Website and the entering into this Agreement will be deemed to take place in the United States.
5. Any dispute regarding this Agreement, the License, any supplemental or extended license or any Content or the use thereof will be resolved exclusively by a State or Federal court in New York City in the United States. We and you hereby waive any objection to venue, or to the inconvenience of the forum, of any such court or right to trial by jury to resolve any such dispute. The parties hereby consent to the jurisdiction of such courts.
6. You will promptly reimburse us for any reasonable attorneys' fees and court costs that are incurred by us in enforcing this Agreement.
7. All of the covenants, terms, provisions and agreements contained in this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and permitted assigns.
8. The Pond5 Parties and the applicable Contributors are intended third Person beneficiaries of this

Agreement. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other third Person any rights, benefits or remedies of any nature whatsoever. Without limiting the generality of the foregoing, no provision herein shall be for the benefit of or enforceable by any creditor of any party hereto.

9. Except as otherwise set forth herein, any notice required or permitted to be given under this Agreement shall be in writing, delivered by hand, nationally recognized overnight courier service, email or registered or certified mail, addressed (i) to Pond5 at: our address set forth on the Website, www.pond5.com, with a copy by email to legal@pond5.com; or (ii) to you at the email address or contact information provided for the Pond5 member account or registration under which the relevant Content was downloaded.
10. If you breach any provision of this Agreement and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach this Agreement. Your obligations, the limitations and our rights and remedies set out in this Agreement are cumulative and are in addition to your obligations and our rights and remedies at law or in equity. Notwithstanding the foregoing or anything else to the contrary in this Agreement, provided the fees due hereunder were paid, Pond5 shall be limited to the right to recover damages in an action at law and in no event shall Pond5 be entitled to seek injunctive relief with respect to any breach or alleged breach hereunder with respect to a Work for Distribution.
11. This Agreement is personal to you and is not assignable by you without Pond5's prior written consent; provided, however, that to the extent that any Content is included within a Work For Distribution made pursuant to the License, without our consent you may assign your rights hereunder as related to such Work For Distribution or any variation thereof. Pond5 may assign this Agreement without your consent to any other Person so long as such Person agrees to be bound by its terms. In addition, the applicable Contributors may, without your consent, assign their rights under this Agreement.
12. This Agreement is in addition to the Website Terms (which are all incorporated by this reference into this Agreement), all of which together embody the parties' entire agreement and supersedes and cancels any prior agreement, express or implied, written or oral, with respect to its subject matter; provided that in the event of any inconsistency between this Agreement and such Website Terms, the terms of this Agreement shall govern.

18. Our Right to Make Changes to This Agreement.

1. Notwithstanding anything else in this or any other agreement, (i) we reserve the right to make changes to this Agreement, the Website Terms at any time and without notice to you, and (ii) you will be subject to the terms of this Agreement and the Website Terms in force at the time that you download the Content. For avoidance of doubt, any changes to the Agreement will not apply to Content downloaded prior to the change.
2. No modification, deletion, amendment of any provision is binding on us unless in writing signed by our authorized representative or posted by us on the Website.

19. Consent to Electronic Communications; Your Personal Data.

1. You consent to receive communications from us electronically and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.
2. You consent to your personal information being shared with and processed in the course of our business by us and our Subsidiaries, which are located in various different countries, including the U.S., which provide varying and in some cases less privacy protection than your country.

20. Acceptance of this Agreement.

1. By clicking "I Agree" or otherwise signifying acceptance, the individual who is doing so is accepting and agreeing to be bound by this Agreement for him/herself and on behalf of his/her employer or other Person that is identified as the Member, and the Person that is designated as the Licensee. If you are accepting on behalf of your employer or other Person that is the Member and/or that is designated as the

Licensee, you represent and warrant that you have full legal authority to bind such employer or other Person.

2. You acknowledge that you have read this Agreement, understand it, and have had an opportunity to seek independent legal advice prior to agreeing to it. In consideration of Pond5 allowing you to access or download the Content, you agree to be bound by the terms and conditions of this Agreement. Additionally, you acknowledge and agree that you have reviewed the Website Terms and any other agreements which may be incorporated by reference herein and therein, and to the extent of their incorporation in this Agreement, you agree to be bound by them.

v.1-7-2015

POND5

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DISCOVER

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EXPLORE

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HELP

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English

U.S. dollars (\$)

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